

MONTANA LEGISLATIVE HISTORY

Chapter 157 1985

Bill H 524 S _____

Original bill & history ☒ c

H. Committee on State Admin.

Hearing Date(s) 2-13 ☒ c

_____ c

_____ c

_____ c

Date Out _____ c

S. Committee on Natural Res.

Hearing Date(s) 3-11 ☒ c

_____ c

_____ c

_____ c

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

HOUSE FINAL STATUS

4/08	2ND READING AMENDMENTS CONCURRED	90	3
4/08	ON MOTION RULES SUSPENDED		
	PLACED ON 3RD READING THIS DAY		
4/08	3RD READING AMENDMENTS CONCURRED	90	6
4/15	SIGNED BY SPEAKER		
4/15	SIGNED BY PRESIDENT		
4/16	TRANSMITTED TO GOVERNOR		
4/19	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 564	EFFECTIVE DATE:	10/01/85

HB 524 INTRODUCED BY ADDY
TO ALLOW STATE LANDS COMMISSIONER TO LIMIT
OVERRIDING ROYALTIES
BY REQUEST OF DEPARTMENT OF STATE LANDS

1/28	INTRODUCED		
1/28	REFERRED TO STATE ADMINISTRATION		
2/13	HEARING		
2/13	COMMITTEE REPORT-BILL PASS AS AMENDED		
2/16	2ND READING PASS	89	0
2/19	3RD READING PASS	97	1

	TRANSMITTED TO SENATE		
2/21	REFERRED TO NATURAL RESOURCES		
3/11	HEARING		
3/12	COMMITTEE REPORT-BILL CONCURRED		
3/14	2ND READING CONCURRED	45	0
3/16	3RD READING CONCURRED	47	0

	RETURNED TO HOUSE		
3/20	SIGNED BY SPEAKER		
3/21	SIGNED BY PRESIDENT		
3/21	TRANSMITTED TO GOVERNOR		
3/22	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 157	EFFECTIVE DATE:	10/01/85

HB 525 INTRODUCED BY ASAY, GAGE, ET AL.
\$6,000,000 OF COAL TAX MONEY APPROPRIATED FOR
SECONDARY HIGHWAY 384

1/28	INTRODUCED		
1/28	REFERRED TO APPROPRIATIONS		
3/21	HEARING		
	DIED IN COMMITTEE		

HB 526 INTRODUCED BY SIMON
GEN. RELIEF ASSISTANCE WHEN APPLICANTS ELIGIBLE FOR
OTHER TYPES OF RELIEF
BY REQUEST OF DEPARTMENT OF SOCIAL &
REHABILITATION SERVICES.

1/28	INTRODUCED		
1/28	REFERRED TO HUMAN SERVICES & AGING		
1/30	FISCAL NOTE REQUESTED		
2/04	FISCAL NOTE RECEIVED		
2/13	HEARING		
2/15	COMMITTEE REPORT-BILL PASS AS AMENDED		
2/16	2ND READING PASS	56	0

1 HOUSE BILL NO. 524
2 INTRODUCED BY [Signature]
3 BY REQUEST OF THE DEPARTMENT OF STATE LANDS
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW THE
6 COMMISSIONER OF STATE LANDS TO LIMIT OVERRIDING ROYALTIES
7 AND PAYMENTS OUT OF PRODUCTION FROM STATE OIL AND GAS
8 LEASES; AND PROVIDING AN APPLICABILITY DATE."
9

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Limitation on overriding royalties and
12 payments out of production. (1) No person, partnership, or
13 association may enter into an agreement which in the
14 aggregate creates overriding royalties or payments out of
15 the production of oil and gas in excess of 5% above the
16 landowner's royalty payable to the state of Montana unless
17 that agreement expressly provides that the obligation to pay
18 overriding royalties or payments out of production may be
19 suspended by the commissioner at any time upon a
20 determination that the excess overriding royalties or
21 payments out of production constitute a burden on lease
22 operations to the extent that:

23 (a) proper and timely development may be retarded;
24 (b) continued operation of the lease may be impaired;
25 or

1 (c) premature abandonment of the wells may occur.
2 (2) This section applies separately to any zone or
3 portion of a lease segregated for computing a royalty due to
4 the state of Montana.

5 (3) All agreements of any kind creating overriding
6 royalties or payments out of production of oil and gas must
7 be filed with the department within 30 days of their
8 creation by the lessee.

9 Section 2. Filing of prior agreements. All agreements
10 that created overriding royalties or payments out of
11 production of oil and gas from state oil and gas leases
12 prior to the effective date of this act must be filed by the
13 lessee with the department of state lands during the 30-day
14 period following the next anniversary date of the lease.

15 Section 3. Extension of authority. Any existing
16 authority of the board of land commissioners to make rules
17 on the subject of the provisions of this act is extended to
18 the provisions of this act.

19 Section 4. Codification instruction. Section 1 is
20 intended to be codified as an integral part of Title 77,
21 chapter 3, part 4, and the provisions of Title 77, chapter
22 3, part 4, apply to section 1.

23 Section 5. Severability. If a part of this act is
24 invalid, all valid parts that are severable from the invalid
25 part remain in effect. If a part of this act is invalid in

LC 1442/01

1 one or more of its applications, the part remains in effect
2 in all valid applications that are severable from the
3 invalid applications.

4 Section 6. Applicability. Section 1 does not apply to
5 overriding royalties or payments out of production
6 agreements entered into before the effective date of this
7 act.

-End-

STATUS SHEET

Forty-Ninth LEGISLATIVE SESSION

COMMITTEE ON State Administration

BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON- CURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CON- CURRED IN DATE
HB 423	1/23	2/8 & 2/18	2/18			2/18			
427	1/23	2/6	2/6		2/6				
451	1/23	2/6	2/6		2/6				
451	1/24	TABLED AT REQUEST OF SPONSOR							
463	1/24	2/7	2/7	2/7					
464	1/24	2/7	2/7			2/7			
473	1/25	1/28 REREFERRED TO JUDICIARY							
482	1/25	2/8	2/8			2/8			
488	1/26	2/7	2/7			2/7			
501	1/26	2/13	2/13	2/13					
508	1/26	REREFERRED 2/8/85							
513	1/26	3/5	3/5			3/5			
514	1/26	2/12 TABLED 2/12/85							
515	1/26	TABLED AT REQUEST OF SPONSOR							
523	1/28	2/11	2/11	2/11					
524	1/28	2/13	2/13			2/13			

OPPONENTS: There were no opponents.

DISCUSSION OF HOUSE BILL NO. 601: There were no questions from the Committee.

Rep. Thoft closed without further comment.

CONSIDERATION OF HOUSE BILL NO. 524: Rep. Kelly Addy, District #94, sponsor, said this would allow the department of state lands to reduce existing overriding royalties that cause premature abandonment of marginal wells and would encourage the drilling of oil and gas leases.

PROPOSERS: Dennis Hemmer, Department of State Lands, appeared in support of the bill and read his testimony to the Committee which is attached as Exhibit #4.

Darwin VanDeGraaf, Executive Director of the Montana Petroleum Association appeared not as a proponent or opponent. They do think the problem of overriding royalties can impede production and proposed an amendment to the bill. Page 2, line 2 would read "The board of land commissioners may require that an agreement which" and page 2, line 12 strike "must". With these amendments they would endorse the bill.

OPPONENTS: There were no opponents.

DISCUSSION OF HOUSE BILL NO. 524: Rep. Jenkins asked Rep. Addy to explain what overriding royalties are. Rep. Compton asked how high the percentage would be under this bill. Mr. Hemmer said there is no limit. Leases can be moved around with each one keeping 1-2% and this erodes the profitability for the operator.

Rep. Addy closed saying that he had no problem with the amendments suggested by Mr. VanDeGraaf.

CONSIDERATION OF HOUSE BILL NO. 570: Rep. John Mercer, District #70, sponsor, said the bill would change the existing fire inspection requirement from 6 months to at least once each 12 months for school buildings and all other buildings at least once each 18 months. They don't have the manpower to cover them all in the 6 month period. These would be mandatory inspections but it would not prevent them from making inspections at other times as well.

PROPOSERS: Bruce Houston, Deputy State Fire Marshal, said the majority of the communities were not complying with the statutes and this bill was proposed by the paid fire chiefs throughout the state.

Mike Walker, Montana State Fire Marshal's Advisory Board, said that under the current statute there must be an inspection of every building every 6 months.

Regarding the treatment center at Glasgow, this money was loaned to them for construction of the unit because FmHA does not loan money for construction, however, they will assume the loan after the construction is complete. This all had to be approved before construction began. After construction the Health Facility Authority will be repaid by FmHA.

There being no further questions concerning HB 623, the Committee went into executive session.

DISPOSITION OF HOUSE BILL NO. 623: Rep. Phillips moved HB 623 DO PASS AS AMENDED with an effective date of 1983. Motion seconded by Rep. Smith. Motion CARRIED with Reps. Peterson, Cody and Fritz voting "no".

DISPOSITION OF HOUSE BILL NO. 603: Rep. Peterson moved that HB 603 DO NOT PASS, seconded by Rep. Cody. Motion CARRIED UNANIMOUSLY.

DISPOSITION OF HOUSE BILL NO. 629: Rep. O'Connell moved that HB 629 DO PASS, second received.

Chairman Sales again asked if any of these fines are going into retirement funds. Mr. Schneider said there is a Senate bill that says highway patrolmen retirement fund will get 1% of all fines only from fines of no proof of insurance.

Rep. Holliday said she didn't like the bill as in her area the county officers were making it a fund raiser and said this bill would increase and encourage that. Reps. Campbell and Smith agreed with Rep. Holliday.

Rep. Phillips said that in the bill it does not preclude giving the money to the counties.

Motion being called for the motion CARRIED with Reps. Campbell, Holliday, Phillips, Hayne and Peterson voting "no".

DISPOSITION OF HOUSE BILL NO. 576: Rep. Fritz moved the ADOPTION OF THE AMENDMENTS, seconded by Rep. Nelson. Motion CARRIED UNANIMOUSLY.

Rep. Fritz then moved that HB 576 DO PASS AS AMENDED, seconded by Rep. Nelson. Motion CARRIED UNANIMOUSLY.

DISPOSITION OF HOUSE BILL NO. 601: Rep. Cody moved that HB 601 DO PASS, seconded by Rep. Peterson. Motion CARRIED with Rep. Harbin voting "no".

DISPOSITION OF HOUSE BILL NO. 524: Rep. Harbin moved the ADOPTION OF THE AMENDMENTS, seconded by Rep. Garcia.

Rep. Cody then moved that HB 524 DO PASS AS AMENDED, seconded

by Rep. O'Connell. Motion CARRIED UNANIMOUSLY.

DISPOSITION OF HOUSE BILL NO. 570: Rep. Nelson moved the ADOPTION OF THE AMENDMENTS, seconded by Rep. Fritz. Motion CARRIED UNANIMOUSLY.

Rep. O'Connell then moved that HB 570 DO PASS AS AMENDED, seconded by Rep. Campbell. Motion CARRIED with Reps. Harbin and Peterson voting "no".

DISPOSITION OF HOUSE BILL NO. 761: Rep. Phillips moved that HB 761 DO NOT PASS, seconded by Rep. Sales.

Rep. O'Connell made a SUBSTITUTE MOTION DO PASS, seconded by Rep. Pistoria.

Rep. Phillips said he didn't think they realize the impact of the bill. He said that many motel people have told him that \$27 is ample. He felt that jobs would be lost by cutting down on money so it could be used for travel and that paying actual expenses on page 3, lines 3 through 5 would really be "opening a can of worms". He recommended \$27 for lodging. Rep. Harbin pointed out that out-of-state was cut by \$15 and this would be a savings.

The substitute motion FAILED 8-7 with Reps. Phillips, Holliday, Campbell, Smith, Sales, Compton, Peterson and Fritz voting "no".

Rep. Peterson asked if this bill limits the out-of-state or just in-state. Rep. Phillips replied that it limits both.

Rep. Phillips moved ADOPTION OF THE AMENDMENTS stating that the bill would be returned to its original form with the \$35 lodging figure being amended to \$27. All other figures would be returned to the original figure. Motion CARRIED 9-7. (See attached Roll Call Vote)

Rep. Phillips then moved HB 761 DO PASS AS AMENDED, seconded by Rep. Hayne. Motion CARRIED with Reps. Hayne, Nelson, Peterson, O'Connell, Smith and Pistoria voting "no".

The meeting adjourned at 11:11.



WALTER R. SALES, Chairman

(Type in committee members' names and have 50 printed to start).

DAILY ROLL CALL

State Administration COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 2/13/85

NAME	PRESENT	ABSENT	EXCUSE
Chairman Walter Sales	✓		
V-Chairman Helen O'Connell	✓		
Campbell, Bud	✓		
Compton, Duane	✓		
Cody, Dorothy	✓		
Fritz, Harry	✓		
Garcia, Rodney	✓		
Hayne, Harriet	✓		
Harbin, Raymond	✓		
Hollicay, Gay	✓		
Jenkins, Loren	✓		
Kennerly, Roland	✓		
Moore, Janet		✓	
Nelson, Richard	✓		
Peterson, Mary Lou	✓		
Phillips, John	✓		
Pistoria, Paul	✓		
Smith, Clyde	✓		

Please attach to minutes.

HB-524
2/13/85

TESTIMONY ON HOUSE BILL 524

DENNIS HEMMER, COMMISSIONER OF STATE LANDS

The Department of State Lands supports the passage of House Bill 524 regarding the limitation of overriding royalties and payments out of production on state oil and gas leases. The purpose of the bill would be to encourage the drilling of state oil and gas leases by allowing the Department the flexibility to reduce excessive overriding royalties when they impede legitimate development attempts. The bill would also increase the state production of stripper oil and gas by allowing the Department to reduce existing overriding royalties that cause premature abandonment of marginal wells due to the raising of the economic cutoff created by the overriding royalty interest. The procedure that would be followed when overriding royalties are a problem could be a negotiated overall reduction of the overriding royalties or elimination of the overriding royalties in reverse order of the acquisition until a satisfactory level is reached. Ideally the negotiation would involve only the operator and the override owners. The Department would however have the power to intervene to insure that the development of the state's oil and gas interests are not impeded. Without this ability a potentially paying well may not be drilled at all or the economic cutoff of marginally producing wells may be increased thus causing a loss of revenue to the school trust. By requiring the operators to report their overrides, the Department will be able to monitor the overriding royalty interests on thousands of leases on file. The bill will not affect old leases already granted by the Department.

STANDING COMMITTEE REPORT

February 13

1935

MR. SPEAKER

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 524

First reading copy (White)
color

TO ALLOW STATE LANDS COMMISSIONER TO LIMIT OVERRIDING ROYALTIES

Respectfully report as follows: That HOUSE Bill No. 524

BE AMENDED AS FOLLOWS:

1. Page 2, lines 9 and 10.

Strike: "All" on line 9 through "that" on line 10

Insert: "The board of land commissioners may require that an agreement which"

2) Page 2, line 12.

Strike: "must"

AND AS AMENDED

DO PASS—

STATUS SHEET

Natural Resources COMMITTEE

49th LEGISLATURE

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB695	EXEMPTS COUNTY OPEN-CUT GRAVEL MINES FROM RECLAMA- TION PLAN	2/21	ASAY	3/20 3/28	TABLED	
HB362	RENEWAL OF FACILITY SITING CERTIFICATE	2/22	BARDANOUVE	3/11	BE CONCURRED IN	3/12
HB524	TO ALLOW STATE LAND COMMISIONER TO LIMIT OVERRIDING ROYALTIES	2/22	ADDY	3/11	BE CONCURRED IN	3/12
HB698	DETAILS METAL MINE APPL'N & RECLAMA- TION PLAN REQUIRE- MENTS & STATE'S ACTIONS	2/23	REAM	3/18	BE CONCURRED IN	3/20
HB702	TRANSFER FORESTRY FUNCTIONS FROM DNRC TO DEPT. OF STATE LANDS	2/23	HARBIN	3/18	BE CONCURRED IN	3/18

QUESTIONS OF THE COMMITTEE: Senator Gage asked where most of these easement properties in question are located. He was told that the Milwaukee sold several pieces at nearly wholesale prices, selling the properties back to salvagers. The salvagers turned it over to local real estate agents. L. B. Foster is one buyer that picked up a large section of the railroad right-of-way. Most of the rights-of-way go back on the tax rolls.

Senator Gage asked if right-of-way is going on the tax roles, how much is it going to cost local governments if the state acquires the right-of-way.

Senator Eck stated that the state is only acquiring the easement, not the land.

Representative Raney said that most branch lines go through agricultural land, so if the department acquires the easement, the railroad can still sell the property. In most cases, the adjacent landowners are buying the property now, and the only thing that would prevent them from not using it as they wish is if they want to develop it.

Representative Raney closed on HB 523 by saying that the bill says "the Department of Commerce may negotiate to acquire easements." That is important because there are many rights-of-way that will not be acquired because of the way the land was acquired by the railroad initially. He is looking more to, specifically, Northern-Pacific, Milwaukee and Great Northern to induce them to provide the rights-of-way, as opposed to the Gardiner line, which is lost to future transportation possibilities.

ACTION ON HB 523: Senator Christiaens moved that HB 523 be concurred in. Motion passed unanimously. Senator Eck will carry this bill.

CONSIDERATION OF HOUSE BILL 524: The sponsor of this bill, Representative Kelly Addy, District 94, Billings, Montana introduced the bill by saying its purpose is to maintain the productive capacity associated with oil and gas leases on state lands. He referred to cases in which someone leases state land to develop oil and gas reservoirs, and does not produce, but instead assigns the rights to a subsequent party. As a result, he retains an overriding royalty that reduced the amount that is available to the person that produces on that land. If this is done two or three times, there is so little royalty left that anybody that ends up with the right to produce on that land has no incentive to do so because their share would be so small. This bill says that overriding royalties or payments may not be in excess of 5 per cent above the landowners royalty to the state, unless the agreement allows the commissioner to suspend overriding royalties or payments if they become too burdensome.

PROPONENTS: Mr. Dennis Hemmer, representing the Department of State Lands, testified before the committee and submitted written testimony (Exhibit 4).

There being no other proponents and no opponents the hearing was opened to questions from the committee.

QUESTIONS OF THE COMMITTEE: Senator Gage said he would prefer to see something in the bill to set forth how the commissioner's determination might be made.

Chairman Eck suggested maybe a Statement of Intent is needed.

Mr. Dennis Hemmer said the Department felt rather than mandate a mechanism to keep overriding royalties down, they would just as soon leave it open, so the developers work it out.

Senator Shaw asked, "How big is this problem?" Mr. Hemmer said it is big enough that it should be addressed.

Senator Eck asked if the intent is for developers to get together and come to an agreement on how they are going to get down to 5 percent. She asked what they would do if the production was on state land. Mr. Hemmer said this law only applies to state lands. The board could adopt rules as to how they could get the royalties to 5 percent.

Senator Gage stated he would rather see a mechanism built into the bill stating that if this determination is made by the state everyone would receive a pro-rata share of the 5 percent override.

Senator Christiaens asked if they had thought about this.

Representative Addy said this was not a problem on the House side. He would rather see the parties come to an agreement, and if for some reason they could not, he could always come in with another bill.

Mr. Hemmer said he would suggest giving the oil and gas developers a couple of years to work it out, and if they cannot, then the Department could come in with a new proposal. He emphasized that if the first one to obtain the lease does most of the developing work on the property, and later a number of persons pass on the lease, then the persons should be peeled off one-by-one.

Senator Gage stated part of this law may take care of itself. When override holders drag their feet and don't want to solve the situation to the point that the working interest owner cannot operate the well and make money on the well, the state can come in for failure to produce and request cancellation of that lease. He noted that one can do that on private land, and said he assumed it could on state lands, too. When the lease is cancelled, the overrides are cancelled. The state then leases that property again with the state's regular royalty. There is a reason for the overriding people to get together.

March 11, 1985

Representative Addy closed on HB 524.

ACTION ON HB 524: Senator Gage moved the bill be concurred in. Question was called. The motion passed unanimously.

ACTION ON HB 694: It was reported that Representative Asay asked that this bill be tabled. Senator Halligan moved that they ask Representative Asay to write a letter requesting HB 694 be tabled. Motion passed.

Chairman Eck referred to Senator Christiaens' resolution, and said it could be submitted without going through committee (Exhibit 5).

ACTION ON HB 582: Chairman Eck remarked that she believed Senator Daniels may have made a motion on this bill in the last meeting. Amendments were presented to the committee and reviewed by Bob Thompson, staff researcher (Exhibit 6).

Senator Christiaens made a substitute motion that the four amendments presented to the committee be adopted. Motion passed unanimously.

Senator Christiaens moved HB 582 be concurred in as amended.

There being no further business, the meeting adjourned at 2:40 p.m.


Chairman, Senator Dorothy Eck

Natural Resources

COMMITTEE

48th LEGISLATIVE SESSION -- 1985

Date 3-11-85SENATE
SEAT
#

NAME	PRESENT	ABSENT	EXCUSED
<u>ECK, Dorothy (Chairman</u>	X		
<u>HALLIGAN, Mike (Vice Chairman)</u>	X		
<u>WHEELING, Cecil</u>	X		
<u>MOHAR, John</u>	X		
<u>DANIELS, M. K.</u>	X		
<u>FULLER, David</u>	X		
<u>CHRISTIAENS, Chris</u>	X		
<u>TVEIT, Larry</u>	X		
<u>GAGE, Delwyn</u>	X		
<u>ANDERSON, John</u>	X		
<u>SHAW, James</u>	X		
<u>HARDING, Ethel</u>	X		

Each day attach to minutes.

TESTIMONY ON HOUSE BILL 524

DENNIS HEMMER, COMMISSIONER OF STATE LANDS

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SENATE NATURAL RESOURCES COMMITTEE

EXHIBIT NO. 4

DATE 03/18/85

BILL NO. HB 524

STANDING COMMITTEE REPORT

MARCH 11 1985

MR. PRESIDENT

We, your committee on NATURAL RESOURCES

having had under consideration HOUSE BILL No. 524

third reading copy (blue)
color

Carried by Senator Gage

TO ALLOW STATE LANDS COMMISSIONER TO LIMIT OVERRIDING ROYALTIES

Respectfully report as follows: That HOUSE BILL No. 524

BE CONCURRED IN

~~SENATOR~~

~~CONCURRED~~

Senator Dorothy Eck,

Chairman.